

Tax Deduction at Source (TDS)

Role of Drawing and Disbursing Officers (DDOs)

**Under Assam Value Added
Tax (AVAT) ACT, 2003
and
AVAT Rules, 2005**

Obtaining TAN Number by DDO

Every person responsible for deduction of Tax at source shall within prescribed time apply to the Prescribed Authority for allotment of sales tax deduction account number commonly known as - Tax Deduction Account Number (TAN) as per section 47 (5) of the AVAT Act, 2003 and shall quote the TAN number in documents, statements and returns.

As per Rule 28(5) of AVAT Rules, 2005 a person responsible for making deductions shall apply for TAN in Form-33 to the prescribed authority and the TAN number shall be issued in Form-34.

Timely deposition of TDS into the Government Account

All DDOs who make deductions of Tax at source should deposit or credit the same to the Government Account within the prescribed time or stipulated time as per Sec 47 (6) of AVAT Act, 2003 read with Rule 28 (1) of AVAT Rules, 2005. Rule 28 (1) (a) reads as -

“Every person who is required to deduct tax under section 47 shall, within ten days from the expiry of the month, deposit into a Designated Bank by the appropriate Challan in Form-24 the total amount of so deductible or deducted from one or more dealers during the immediately preceding month;”

Interest and Penal Provisions in case of failure of Deduction or Failure of submission of Deducted Tax

Any person responsible for deduction of tax if fails to deduct the amount or after deducting the amount fails to deposit the same into the Government account, the Prescribed authority may after giving reasonable opportunity of being heard by an order in writing direct such a person to pay by way of penalty a sum not exceeding twice the amount deductible or deducted. And interest shall also be imposed on the amount deductible or deducted at the rate of one and half percent per month as per sec 47 (12) and Sec 47 (13) of the AVAT Act, 2003.

Submission of Return by DDOs

Any person responsible for deduction of tax shall also file a return in the prescribed form (Form-35) within two months from the end of each year as per section 47 (9) of the AVAT Act, 2003 and Rule 28(5) of the AVAT Rules, 2005.

Submission of Extract along with the Challan

While depositing the tax deducted a challan for each deposit in respect of a month shall be filled up in quadruplicate and signed by the person making such deposit and the challan shall specify the Government Department, Undertaking, Authority Company or Corporation with the name and designation of the person making deposit of the amount referred to in sub rule (1) and mention therein in clear detail the name (s) of the dealer (s) on whose behalf the tax (es) is/are paid.

Issuance of TDS Certificate

The person who deducts or deposits any amount under the AVAT Act, 2008 after deducting the same at source shall, within seven days from the date of deposit of the amount deducted from the payment made to the dealer issue to the dealer concerned, a certificate of tax deduction in Form-29 in duplicate along with the attested photocopy of the challan. And the person shall maintain a register for each year in Form-36 format showing the amount of tax deducted, certificate of tax deduction issued and the particulars of remittances made to the Government Account.

The Department is also in the process of finding an option of producing TDS certificate online to the contractors/dealers.

Liability of DDO shall be recovered as an arrear of land Revenue

Section 47 (11) of the AVAT Act, 2003 states that when an amount has not been deposited after deduction, such amount and any other sum which may be payable under this section shall be a charge upon all the assets of the person concerned who made the deduction of who is liable to pay any other amount and shall be recoverable from him as arrears of land revenue.

Tax Rates for deduction against sale or supply

The person responsible for deduction of tax at source shall deduct tax an amount calculated at the rates prescribed or specified in the Schedule from such sums towards full satisfaction of the tax payable under the AVAT Act, 2003 on account of total sale price or such sale or supply.

Application for deduction of tax at lower amount or no deduction of tax

An application for grant of certificate of tax at source for a lower amount or the application for no deduction of tax as and when a running bill for any completed portion of works contract become due for payment by the contractee shall be made by the contractor in Form-30 to the Prescribed Authority who is having jurisdiction over the dealer. And the Prescribed authority to his satisfaction shall issue the certificate in Form - 31 as 'Certificate Relating to Lower Deduction of Tax at Source/No Deduction.'

As per Rule 28 (4) lower deduction in respect of supply should be done on the body of the bills for tax deducting at source.

Information to be given in Case of Execution of any Contract

Any person who wishes to execute any contract shall furnish the information of the contract to the Prescribed Authority in Form - 32.

Online Payment or e-Payment of TDS

The taxation Department has already introduced the option of e-Payment or online payment of Valued Added Tax (VAT) and other Taxes by the dealers. The Department can avail the option of online or e-payment of TDS as well. This will enable direct deposition of TDS into the Government Exchequer without any delay and would streamline the system as well.